

them to buy into Medicare. I want to emphasize this is a pay-as-you-go system. We have heard criticism that we can't do anything to expand Medicare without harming Medicare. I don't think there is anyone in the Senate who would do that. We want to make sure that anything that we put forward pays for itself.

The President also touched on the rights of health care consumers to get quality health care from HMOs. These health maintenance organizations often deliver care in a very efficient manner. The question is, is the quality there? I wrote a bill, the Health Care Consumers' Bill of Rights Act, which parallels a lot of what the President talked about. I hope we can enact a patient's bill of rights this year.

When I was in my State, I had the good fortune to meet with a gentleman named Harry Christie, who had a poignant story to tell. His daughter Carley at age 9 was diagnosed with a rare and aggressive form of kidney cancer. His HMO refused to allow him to take that child to a pediatric surgeon who specialized in this very delicate operation. So, Mr. Christie was faced with a terrible choice. What to do? He dug into his own pocket, he somehow got the thousands of dollars—\$40,000 to be exact—to pay for Carley's operation. This story has a happy ending. Carley had the operation. She is 14 years old. She is cancer free. But only because her dad went against the HMO.

I don't want to see any other parent in America go through that torture. If there is a specialist available to handle a crisis, anyone in this country who has health insurance should be able to go to that specialist. That would be part of the patients' bill of rights.

I am ready to work with my colleagues to develop a consensus HMO reform bill that we can pass and send to the President for his signature. In the end, it doesn't matter whose name is on the bill. I do not care if it is a Democratic bill or a Republican bill. Our task is simply to get the job done. I look forward to working on this legislation and I hope the Majority Leader will schedule action on it this year. In my view, HMO reform must be a top priority of this session of Congress.

In the crime area, I will be urging my colleagues in the Senate to agree to legislation that will require all makers of handguns to include child safety locks in the weapons. The President proposed this last year, a number of manufacturers have voluntarily complied, but I want to ensure that all of them do.

I will also continue to make the case for my legislation to ban the manufacture and sale of "junk guns" or "Saturday night specials", which are cheap, poorly made guns that are so often used in the commission of crimes. I realize that the chances of such legislation passing are low, given the current makeup of the Congress, but I think that it is important to raise the issue, nevertheless.

As a member of the Environment and Public Works Committee, I will be working a number of bills that are of great importance to the people and communities of my state, including reforming the Superfund program to clean up contaminated sites across the country.

I will seek opportunities to enact my legislation, the "Children's Environmental Protection Act", which would require all of our environmental health and safety standards to be set at levels that would ensure protection of children, the elderly, and pregnant women, and other vulnerable groups. It would also require the EPA to establish a list of "safer-for-children" products such as pesticides and household cleaners, to give concerned consumers more information on the products found in all American households.

I also applaud and will work to enact the President's "Clean Water Initiative", which will provide substantial new resources to fulfill the promise of the Clean Water Act to give all Americans clean, safe lakes, rivers and coastal waters.

Sometime in the next few weeks, the Senate is expected to take up the transportation infrastructure bill—ISTEA—and I look forward to that debate. Californians are anxious to see quick action on that legislation, which provides funding for highway, transit, and other transportation projects throughout the state.

Last night, the President announced that his budget, which he will submit to Congress next week, will be in balance beginning in fiscal year 1999. The Budget Committee, of which I am a member, began its hearings on the state of the economy and the federal budget this morning. I believe that we can balance the budget next year, and I will work to ensure that it happens. Hopefully, we can start seeing budget surpluses in future years. But I want to be very clear about that: before we do anything else, we must ensure the integrity of the Social Security trust fund, so that baby boomers and future generations can count on getting the benefits for which they have contributed all their working lives.

Within the context of a balanced budget, I believe we have the resources for limited, targeted tax reduction. I will introduce a bill in the next few days to provide a tax deduction for the cost of buying health insurance to people whose employers do not provide health plans and for those who are unemployed.

There are many other issues I could go into. I see my friend Senator GRAMS is here. We just spent about an hour together in the Budget Committee. I am sure he has some valuable issues to lay out for the Senate. But I do think it is important to know—and I am putting it in very blunt terms—that although we celebrate a balanced budget, if it weren't for the surplus of Social Security that we are borrowing, we would still be in debt. It is time to pay back

the Social Security trust fund. You know, there are many trust funds that we have, that we should pay back—they are much smaller than Social Security; we can do it easily—the Land and Water Conservation Fund, the Aviation Trust Fund, the Highway Trust Funds. Those are small. We can pay them back. But Social Security is large.

If you owe a debt to someone in life you have to pay him or her back. When I have young people standing up at my community meetings, looking me in the eye, who say, "Can you tell me Social Security will be there when I need it? I'm 30 years old and I'm not sure." I tell them when I was 30 I wasn't sure Social Security would be there. But because of the policies of the Senators, the Congress, the Presidents of both parties, Social Security will be there for me and my family. "I assure you," I said to this last gentleman that mentioned it, "it will be there for you. But only if we heed what President Clinton said."

We have to pay back the Social Security trust fund and then we will have something to be very proud of. We will look back at this time in our history and the people will say about us that we made the right investments in the right things. They paid dividends. They made our people strong and our country strong. And, yes, we saw a looming problem called Social Security and Medicare and we acted to shore up those funds to make sure that future generations will have what this generation has—peace and security.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I ask unanimous consent to be allowed to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUST FOUR DAYS FROM NOW: THE NUCLEAR WASTE STORAGE COUNTDOWN

Mr. GRAMS. Mr. President, the American taxpayers sat down last night to listen to their Chief Executive speak about the state of the union and the future of our country. Bill Clinton knows how to give a good speech, and as we have come to expect, last night's was filled with lots of proposals and promises and reminders of some of the successes of the past year.

It is true—our nation has seen some good times recently. By returning accountability to Washington, we have brought the Federal deficit under control and reduced unemployment to its lowest levels this decade. We have cut taxes for working families for the first time in 16 years. The markets have soared to all-time highs and the economy is churning out rewards for anyone willing to work. Americans are feeling good about their country and about their futures.

Unfortunately, their President failed to warn them last night—even once during his 75-minute speech—that many of the achievements he acknowledged are at risk, threatened by a Federal Government failure so massive that it may take the taxpayers years, even decades, to burrow out from underneath it. What could be so potentially devastating? The failure of the U.S. Department of Energy to begin accepting the Nation's spent commercial nuclear fuel.

And, Mr. President, the taxpayers will inherit the responsibility for that failure just 4 days from now.

After 16 years of denials, delays, and indifference on the part of the U.S. Department of Energy, combined with the politics of special interest groups, the American taxpayers are about to find themselves saddled with the liability for our Nation's nuclear waste. It is a liability they do not deserve, and one they most certainly cannot afford.

The clock has been ticking relentlessly for 16 years, and on Saturday night, at midnight, the clock will finally run out on the taxpayers on this issue. After a decade and a half of playing "cat-and-mouse" with the Congress and the courts, it appears as though the DOE may be successful in ducking out of its responsibility. But that can only happen if Congress allows this Administration to get away with it unchallenged.

Mr. President, I stand before you today to pledge that this Senator will not let that happen.

For 16 years, the public has been assured that by January 31st, 1998, just 4 days from now, the Federal Government would take responsibility for storage of the Nation's commercial spent nuclear fuel. Since enactment of the Nuclear Waste Policy Act of 1982, energy ratepayers have been charged a one-mill fee per kilowatt-hour in exchange for this "promise." Each dollar collected is from a consumer located in one of the 34 States that benefit from nuclear energy. Only those who benefit from the lower-cost nuclear power—not the general public—would supposedly fund the waste storage.

Dutifully, ratepayers around the country have paid their fees—to the tune of some \$13 billion. For Minnesota alone, this translates into more than \$271 million. For 16 years, these fees have poured into the Nuclear Waste Fund based upon a legal—and contractual—obligation that the waste would be removed.

Today, with \$7 billion of those ratepayer dollars already spent, the waste is piling up. Nobody at the DOE wants it, nobody at the DOE is prepared to claim it, and because there is no place to put it, nobody at the DOE would be ready to take it by January 31 anyway. Again, that is just 4 days from now.

At the same time, energy consumers are pouring billions into the waste fund, ratepayers and utilities are continuing to pay for on-site storage at more than 70 commercial nuclear plants throughout the country.

In other words, ratepayers are being forced to pay twice for nuclear waste storage, all because the Department of Energy has failed to meet its legal obligations to the American people.

As troubling as this expensive delay has been, that fact alone is not the greatest affront to the American public. What I find most troubling is the financial risk the DOE has dumped at the feet of the taxpayers, because suddenly, every one of them will soon be on the hook for the nuclear waste debacle.

Since coming to Congress in 1993, I have watched the Energy Department play a protracted game of "would not, could not, should not" with the States, the ratepayers, and the Congress. It is a bob-and-weave strategy the DOE has had 16 years to perfect.

In 1994, the DOE argued that it would not accept the nuclear waste by 1998 because the law did not require it to do so. At that time, Minnesota was threatened with a premature shutdown of its Prairie Island nuclear facility, again, due to a lack of on-site storage. The DOE's claim exacerbated an already difficult situation for the State legislature and Minnesota residents, as the State faced the very real possibility it would lose up to 30 percent of its energy resources.

But the Energy Department's flip-pant response at the time was, "It's your problem, not ours."

And so the States went to court. They sued and they won. In July of 1996, the DC Circuit Court of Appeals ruled that the nuclear waste was the DOE's problem and that the January 31st deadline did apply. When the DOE argued that they would not take the waste, the court told them, "yes, you will."

Over the next few months, the DOE was silent on the issue. And so the States wrote to the department asking of its plans to comply with the court decision. The following month, the Department of Energy responded by writing to utilities soliciting their ideas on how they would cope with a failure by the agency to meet the deadline. Having exhausted the "would not" argument, the DOE was now arguing in essence that they "could not" comply with the law.

In June of 1997, the DOE, in direct defiance of the 1996 court order, again asserted that delay was unavoidable due to "acts of Government in its sovereign capacity," and once again made it the States' and utilities problem, not theirs.

So back to court went the States and utilities.

Last November, the DC Circuit Court of Appeals, the same court that ruled the year before, again affirmed that the Department of Energy's obligation to accept the nuclear waste. The panel stated explicitly that the federal government could not surrender its responsibility or liability, and alluded to whether the DOE was putting the taxpayers on the hook for its failure to comply.

Mr. President, the estimates of potential damages and awards have put the dollar figure as high as \$80 billion, and some believe it could go significantly higher. That is a public bailout of immense proportions that would rival the savings and loan bailout.

It was never the intent of Congress to put the taxpayers at risk when it enacted the Nuclear Waste Policy Act of 1982. Nor is that the desire of the 34 States that have nuclear waste stored on-site; they would rather see the waste removed so the production of low-cost power can continue. Still, the Energy Department persists in opposing the people at every turn.

Mr. President, on December 29th, 1997, just a few weeks ago, the Department of Energy filed a "Petition for Rehearing" in an effort to nullify the earlier court rulings. This most recent stunt by the DOE reflects their new position that they "should not" be held responsible—technically or financially—primarily because these lawsuits have been heard in the wrong court.

After the DOE's cries of "would not, could not, should not," it is now up to Congress to respond in the positive: we will protect the taxpayers; and we can develop a solution for resolving the nuclear waste storage crisis; and we must enact the Nuclear Waste Policy Act of 1997 as soon as possible, legislation I have coauthored with my friends and colleagues, Senators CRAIG and MURKOWSKI.

Mr. President, our legislation would set in motion the implementation of a timely and environmentally sound waste solution, and was adopted by overwhelming, bipartisan votes last year in the Senate and House. Nevertheless, with conferee appointments pending, a veto threat from the administration may yet derail the bill. So once again, the Department of Energy is blocking the will of the people.

The taxpayers have the most to lose if the Department of Energy prevails and we accept the status quo. These are hard-working Americans who have to keep a budget and account for their spending, and they expect the Federal Government to exercise that same accountability with their tax dollars as well. With so many Government agencies and programs fighting for limited funds, how can the taxpayers possibly afford a multi-billion-dollar bailout of the Energy Department? How can the Nation's energy consumers afford additional on-site storage, early decommissioning costs, alternative fuel purchases to compensate for lost power? How can they afford refinancing the billions wasted from the Nuclear Waste Fund? How will the economy handle the loss of jobs and productivity that will certainly follow when energy costs begin to soar and generating facilities begin to shut down?

How is it possible that all of this will be set into motion just 4 days from now, and yet it did not merit a single sentence in the President's State of the Union Address last night?

The President last night also failed to mention that these costs will be borne as much by grandma and grandpa as they will by any corporate executives or Members of Congress. He did not mention that nuclear power is a fuel that burns nothing, thereby helping us achieve cleaner air and a better environment. He failed to mention that the costs of his global warming treaty will be even higher for every American if we continue to shut down nuclear power plants in favor of coal-burning technologies. And most regrettably, he failed to offer any kind of explanation into why his administration supports the Department of Energy as they unlawfully stick it to the American taxpayers.

While the DOE waits, and hides behind courtroom appeals, and shirks its responsibilities that it is legally bound to accept, Americans across our country can expect yet more rate increases and yet higher taxes from a government that is either too afraid or too incompetent to act.

How can we face ourselves come Sunday morning—just 4 days from today—if we simply step back and quietly allow this to happen? We could not, we should not, and we will not.

So finally, Mr. President, I urge my colleagues to reassure their constituents that come midnight on Saturday, the people will not be forgotten, that they will return to Washington next week and fulfill their oath to protect the taxpayers and ensure that their Government fulfills its obligation to them, and that we will never allow such a failure to happen again.

Thank you very much, Mr. President. And I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

There being no objection, at 12:51 p.m., the Senate recessed until 2:15; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ROBERTS).

EXECUTIVE SESSION

THE JUDICIARY

VOTE ON NOMINATION OF ANN L. AIKEN

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Ann L. Aiken, of Oregon, to be United States District Judge for the District of Oregon? On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina [Mr. FAIRCLOTH] is necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina [Mr. FAIRCLOTH] would vote "no."

Mr. FORD. I announce that the Senator from Illinois [Mrs. DURBIN] and the Senator from Illinois [Ms. MOSELEY-BRAUN] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced— yeas 67, nays 30, as follows:

[Rollcall Vote No. 1 Ex.]

YEAS—67

Akaka	Feinstein	Mikulski
Baucus	Ford	Moynihan
Bennett	Glenn	Murray
Biden	Gorton	Reed
Bingaman	Graham	Reid
Boxer	Harkin	Robb
Breaux	Hatch	Rockefeller
Bryan	Hollings	Roth
Bumpers	Inouye	Santorum
Byrd	Jeffords	Sarbanes
Campbell	Johnson	Sessions
Chafee	Kempthorne	Shelby
Cleland	Kennedy	Smith (OR)
Coats	Kerrey	Specter
Cochran	Kerry	Stevens
Collins	Kohl	Thomas
Conrad	Landrieu	Thompson
Daschle	Lautenberg	Thurmond
DeWine	Leahy	Torricelli
Dodd	Levin	Wellstone
Domenici	Lieberman	Wyden
Dorgan	Lugar	
Feingold	Mack	

NAYS—30

Abraham	Frist	Kyl
Allard	Gramm	Lott
Ashcroft	Grams	McCain
Bond	Grassley	McConnell
Brownback	Gregg	Murkowski
Burns	Hagel	Nickles
Coverdell	Helms	Roberts
Craig	Hutchinson	Smith (NH)
D'Amato	Hutchison	Snowe
Enzi	Inhofe	Warner

NOT VOTING—3

Durbin	Faircloth	Moseley-Braun
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The nomination was confirmed.

Mr. WYDEN. Mr. President, I move to reconsider the vote.

Mr. SMITH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON NOMINATIONS OF BARRY G. SILVERMAN AND RICHARD W. STORY

The PRESIDING OFFICER. The question is on the confirmations, en bloc, of Barry G. Silverman, of Arizona, to be a circuit judge of the ninth circuit, and Richard W. Story, of Georgia, to be a district judge for the Northern District of Georgia.

The nominations were confirmed.

Mr. LEAHY. Mr. President, I am delighted that we have finally broken the logjam on Ninth Circuit vacancies. Judge Silverman is the first judge to be confirmed to this Court in two years. In the meantime, the Court has been suffering from vacancies amounting to more than one-third of the authorized judgeships for the court and had to cancel over 600 arguments last year.

I congratulate Judge Silverman and his family and thank Senator KYL for his cooperation in this effort. I hope that we will move forward promptly to consider the nominations of Judge Richard Paez, Professor William Fletcher, Margaret McKeown and the others needed to staff this important court.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of morning business.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

JUDICIAL NOMINATIONS

Mr. KENNEDY. Mr. President, I was unable to make my comments earlier involving the consideration and approval of the various judges. I would like to address the Senate for a few moments on this particular issue and, most importantly, to express the strong support for the three nominations that have just been confirmed by the Senate.

Judge Silverman has served with distinction for the past three years on the federal district court in Arizona and will be an impressive member of the 9th Circuit Court of Appeals. Judge Richard Story, has served as a state court judge for many years, and will do an excellent job on the United States District Court in Northern Georgia.

I am particularly pleased that at long last the Senate is allowed to consider the nomination of Judge Ann Aiken. She is an outstanding choice for the federal district court in Oregon. For the past decade, she has served with distinction as a state court judge—first on the district court and, for the past five years on the circuit court. She is widely respected in Oregon for her service to her community. She received the Woman of Achievement award in 1993 from the Oregon Commission for Women. The U.S. Department of Justice honored her in 1994 for her leadership in helping victims of crime.

But despite her impressive qualifications, her nomination has been stonewalled by Republicans in the Senate for more than two years.

On the average, it is taking twice as long for Senate Republicans to confirm President Clinton's nominees as it took for Democrats to act on President Bush's nominations to the federal courts.

For women, the problem is especially serious. Women nominated to federal judgeships are being subjected to greater delays by Senate Republicans than men.

So far in this Republican Congress, women nominated to our federal courts are four times—four times—more likely than men to be held up by the Republican Senate for more than a year.

Last year, the Senate confirmed 30 men, but only 6 women. So only 17 percent of the nominees that the Republican leadership brought before the Senate were women—half as many as President Clinton nominated.